

## REMARKS

The present Amendment responds to the Office Action dated September 6, 2005. The Examiner set a shortened statutory period of three (3) months to respond, making the present Amendment due by December 6, 2005.

In the Office Action, claims 1, 2, 5, 6, 10, 11, and 13 were pending, with claims 1, 2, 5, and 6, in part, and claims 10, 11, and 13 withdrawn from consideration pursuant to 37 CFR 1.142(b). The Examiner has rejected the examined claims under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,365,620 B2 to Eberle et al. The examined claims have also been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over: 1) claims 1-3, 5, and 6 of co-pending US Application No. 10/785,836; and 2) claims 1, 2, 6, 7, and 15 of co-pending US Application No. 10/416,219.

Since the instant application and each of the three cited references are commonly owned by the Assignee, Syngenta Crop Protection, Inc., the Examiner has suggested that Applicants file a Terminal Disclaimer under 37 CFR § 1.321 to obviate the rejections. Although Applicants do not concede the Examiner's position with regard to the double patenting rejections, the present Amendment is accompanied by a single Terminal Disclaimer, based on common ownership, to remove the double patenting rejections and expedite allowance of this case. A Terminal Disclaimer fee pursuant to 37 CFR 1.20(d) is also included.

In addition, the Examiner made various informal claim objections to claims 1, 2, and 6. Each of these objections has been addressed in the manner suggested by the Examiner in the Office Action.

Based upon the foregoing then, Applicants submit that the pending claims are in condition for allowance and the Examiner is courteously solicited to pass this application on to allowance. No other fees are believed to be payable at this time. However, the Commissioner is authorized to debit any applicable fees from the deposit account of the undersigned, No. 50-1676 in the name of Syngenta Crop Protection, Inc.

Respectfully submitted,



Rebecca A. Gegick  
Attorney for Applicants  
Reg. No. 51,724

USPTO Customer No. 26748  
Syngenta Crop Protection, Inc.  
Patent and Trademark Dept.  
410 Swing Road  
Greensboro, NC 27409  
(336) 632-6049

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